



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2019-0339; FRL-10000-76-Region 7]**

**Air Plan Approval; Missouri; Revocation of Kansas City Area  
Transportation Conformity Requirements Plans**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri. This final action will amend the SIP to remove the transportation conformity rule for the Kansas City Area- Clay, Platte and Jackson Counties.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2019-0339. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Jed D. Wolkins, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7588, or by email at [wolkins.jed@epa.gov](mailto:wolkins.jed@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to EPA.

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### **I. What is Being Addressed in this Document?**

The EPA is approving the removal of 10 CSR 10-2.390 Kansas City Area Transportation Conformity Requirements from the Missouri State Implementation Plan (SIP). Missouri submitted the SIP revision on January 14, 2019. Pursuant to the code of Federal regulations at 40 CFR 93.102 (b) transportation conformity must be conducted in all nonattainment and maintenance areas and States must adopt State Plans to conduct

transportation conformity. The Kansas City Area-Clay, Jackson, and Platte Counties- was designated nonattainment for the 1979 one-hour (1-hr) ozone National Ambient Air Quality Standard (NAAQS) (43 FR 8962, March 3, 1978). On July 23, 1992, the Kansas City Area was redesignated as attainment of the 1979 1-hr NAAQS and its first 10-year maintenance plan was approved (57 FR 27939, June 23, 1992). Pursuant to CAA section 175A, the first 10-year maintenance period began on July 23, 1992, the effective date of the redesignation approval. The second maintenance period plan was effective February 12, 2004 (69 FR 1921, January 13, 2004). On April 30, 2004, EPA revoked the 1-hr standard (69 FR 23951, April 30, 2004). Upon the effective date of the revocation, both the second 10-year maintenance period and the requirement for transportation conformity in the Kansas City Area ended. Pursuant to 40 CFR 51.905(e)(3), because the Kansas City Area is in attainment for all NAAQS, the Kansas City Area Transportation Conformity Requirements are no longer required. If in the future, the Kansas City Area was determined to be nonattainment with a standard requiring conformity, the State would have to develop new transportation conformity requirements. Furthermore, the Kansas City Area transportation conformity requirements are not relied on in any other maintenance or attainment plan. The proposed rule did not include this detail of the history of the 1-hr standard however,

we have included it here for completeness. This additional history supports EPA's final action.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided public notice from May 15, 2018 to August 2, 2018 and received no comments on this rule. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## **III. The EPA's Response to Comments**

The public comment period on the EPA's proposed rule opened July 9, 2019, the date of its publication in the **Federal Register**, and closed on August 8, 2019. During this period, the EPA received two comments. One comment was in support of the action and the other was adverse. The EPA is providing response to the adverse comment. Both comments can be found in the docket to this rulemaking.

*Comment 1:* One commenter supported the action.

*Response 1:* Because this comment is in support of the action, no response is necessary.

*Comment 2:* One commenter suggested EPA review a variety of Missouri State Implementation Plans for reliance on the Kansas City Area Transportation Conformity Requirements.

*Response 2:* We believe the commenter's reference to "50 CFR 52.1320" is a typographical error and should instead reference 40 CFR part 52. EPA has reviewed the Missouri plans listed in the comment. Only two of those plans relied on the Kansas City Area transportation conformity requirements. The plans are listed at 40 CFR 52.1320 (e)(46) Maintenance Plan for the 1-hour ozone standard in the Missouri portion of the Kansas City maintenance area for the second ten-year period; and 40 CFR 52.1320 (e)(50) Revision to Maintenance Plan for the 1-hour ozone standard in the Missouri portion of the Kansas City maintenance area for the second ten-year period. Both regulatory citations relate to the Maintenance Plan for the 1-hr ozone standard in the Missouri portion of the Kansas City maintenance area for the second ten-year period, and that period has ended. (69 FR 1921, January 13, 2004, and 71 FR 36210, June 26, 2006). The Kansas City Area transportation conformity requirements are not relied on in any other maintenance or attainment plan. As discussed above and in the proposed action for this rulemaking, Kansas City Area transportation conformity requirements are no longer required because the Kansas City Area is in attainment for all NAAQS.

#### **IV. What Action is the EPA Taking?**

The EPA is taking final action to amend the Missouri SIP to remove the transportation conformity rule for the Kansas City Area.

#### **V. Incorporation by Reference**

In this document, the EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved Missouri Regulations from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

#### **VI. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States.



The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

## **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: \_\_\_\_\_

September 30, 2019.

James Gulliford,  
Regional Administrator,  
Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

### **PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### **Subpart AA-Missouri**

##### **§ 52.1320 [Amended]**

2. In §52.1320, the table in paragraph (c) is amended by removing the entry for "10-2.390" under the heading "Chapter 2--Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area".